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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,678	07/16/2003	Dennis Richard Jennings		9641

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EXAMINER

PADEN, CAROLYN A

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/620,678	JENNINGS, DENNIS RICHARD
	<b>Examiner</b>	<b>Art Unit</b>
	Carolyn A. Paden	1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 24 January 2004.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-42 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 20-23 is/are allowed.

6)  Claim(s) 1-19 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7-16-03.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Dole (4,847,068) and see column 2, lines 7-15.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dole (4,847,068).

Dole discloses a composition containing mineral oil, water and emulsifier. The claims appear to differ from Dole in the recitation that the product is a release agent. Preamble limitations do not carry any weight in product claims.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Callingham (4,264,586).

Callingham discloses a composition containing polydimethylsiloxane, wax, emulsifier and water. The claims appear to differ from Callingham in the recitation that the product is a release agent. Preamble limitations do not carry any weight in product claims.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartung (5,436,007).

Hartung discloses a composition containing polydimethylsiloxane polymer, non-ionic emulsifier, aloe vera, mineral oil and water. The claims appear to differ from Hartung in the recitation that the product is a release agent. Preamble limitations do not carry any weight in product claims.

Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schneider (6,162,290).

Schneider discloses a release agent containing mineral oil, water and surfactant (see example 2).

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lissant (3,892,881).

Lissant discloses a composition containing mineral oils, emulsifier and water (example 1). The claims appear to differ from

Lissant in the recitation that the product is a release agent. Preamble limitations do not carry any weight in product claims.

Claims 1, 2 & 6-9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wilhelm (5,503,866) and see Table 1, #7.

Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilhelm (5,503,866).

Wilhelm discloses a release agent for food contact surfaces that includes 13% mineral oil, 42.8% water, 30.12% soybean oil and 11% lecithin. The claims appear to differ from Wilhelm in the recitation of the amount of mineral oil and emulsifier in the composition. At claim 6, Wilhelm draws equivalence between mineral oil and soybean oil. Thus it would have been obvious to vary the amount of mineral oil in Wilhelm by replacing it for a part of the equivalent soybean oil. This would increase the amount of mineral oil in the composition. It would further have been obvious to vary the lecithin content of Wilhelm according to the extent of food release agent desired in the product.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over El-Nokaly (2003/0228339).

El-Nokaly discloses a composition containing water, mineral oil (0033) or organopolysiloxane (0041) or silicone (0051) as an oil component; sorbitan stearate as one of a number of surfactants (0111). The claims appear to differ from El-Nokaly in the recitation that the product is a release agent. Preamble limitations do not carry any weight in product claims.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not seen from the prior art references that mineral oil is a silicone or polydimethylsiloxane. An amendment to the claims clarifying this issue would overcome the rejection.

It is not seen that any and all combinations of ingredients in claim 1 are effective to form a release agent. An amendment to the claims setting forth the particular amounts of the intended ingredients would overcome the rejection.

Claims 1, 3, 10 and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Corrigan (6,365,211) and see column 3, lines 35-67 and abstract.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ball (5,096,617) in view of Lissant (NPL).

Ball discloses a defoamer emulsion containing water, silica that is coated with dimethyl polysiloxane (column 3, lines 3-11) and an emulsifier, such as sorbitan mono oleate or sorbitan mono laurate (column 4, lines 22-23). The oil in the composition may be natural oil or mineral oil (column 3, lines 41-48). The claims appear to differ from Ball in the suggestion of the selection of sorbitan monostearate as an emulsifier. At column 3, lines 49-68, the broad range of HLB values that are suggested as useful. Lissant teaches that sorbitan monostearate is an emulsifier with an HLB within the desired range in Ball. It would have been obvious to one of ordinary skill in the art to utilize sorbitan monostearate as a selected emulsifier because it has an HLB value that falls within the desired range mentioned by Ball. It is appreciated that a release agent is not mentioned but preamble limitations to not carry any weight in product claims.

Applicant's election without traverse of Group I, claims 1-23 in the reply filed on May 17, 2005 is acknowledged.

Claims 20-23 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone number is (571) 272-1403. The examiner can normally be reached on Monday to Friday from 7 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on (571) 272-1398 or by dialing 571-272-1700. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Carolyn Paden*  
CAROLYN PADEN 6-8-05  
PRIMARY EXAMINER 1761